

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

ORIGINAL

D&F

C/M

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BENNETT A. COHEN,

Plaintiff,

-against-

MEMORANDUM AND ORDER

Case No. 05-CV-2696 (FB)(LB)

MR. GERRALD and MRS. LOUISON,
Owners of 1219 Union Street; LA RETRAITE
REALTY CORP., together with MS. GALE
LOUISON, Managing Agent of 1219 Union
Street and La Retraite Realty Corp., jointly
and severally,

Defendants.
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Appearances:

For the Plaintiff:

JOEL M. GLUCK, ESQ.
80 Livingston Street
Brooklyn, NY 11201

For the Defendants:

BRIAN F. WARD, ESQ.
188 Montague Street, Suite 500
Brooklyn, NY 11201

BLOCK, Senior District Judge:

On December 16, 2005, Magistrate Judge Bloom issued a Report and Recommendation ("R&R") recommending that the above-referenced case be dismissed with prejudice pursuant to Federal Rule of Civil Procedure 41(a)(2). The R&R recited that "the parties shall have ten (10) days from service of this Report to file written objections . . . Failure to file a timely objection to this Report generally waives any further judicial review[.]" R&R at 5. The R&R was served on all parties no later than December 22, 2005; to date, no objections have been filed.

If clear notice has been given of the consequences of failure to object, and there are no objections, the Court may adopt the R&R without *de novo* review. *See Thomas*

v. Arn, 474 U.S. 140, 149-50 (1985); *Mario v. P & C Food Mkts., Inc.*, 313 F.3d 758, 766 (2d Cir. 2002) ("Where parties receive clear notice of the consequences, failure timely to object to a magistrate's report and recommendation operates as a waiver of further judicial review of the magistrate's decision."). The Court will excuse the failure to object, however, and conduct *de novo* review if it appears that the magistrate judge may have committed plain error. See *Spence v. Superintendent, Great Meadow Corr. Facility*, 219 F.3d 162, 174 (2d Cir. 2000). Here, nothing on the face of the R&R suggests plain error. Accordingly, the Court adopts the R&R without *de novo* review.

SO ORDERED.


FREDERIC BLOCK
United States Senior District Judge

Brooklyn, New York
January 11, 2006